

2009-113985

14

**AMENDED AND RESTATED BYLAWS
OF
BENDERS LANDING PROPERTY OWNERS ASSOCIATION**

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**AMENDED AND RESTATED BYLAWS
of
BENDERS LANDING PROPERTY OWNERS ASSOCIATION**

ARTICLE 1

OFFICES

1.01 Principal Office. The principal office of the Association shall be located as the Board of Directors may determine from time-to-time. The Board of Directors may change the location of any office of the Association. Meetings of Members and the Board of Directors may be held at such places within Montgomery County or Harris County, Texas as may be designated by the Board of Directors.

1.02 Other Offices. The corporation may also have offices at such other places both within and without the State of Texas as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE 2

DEFINITIONS

2.01 "Association" shall mean and refer to Benders Landing Property Owners Association, its successors and assigns.

2.02 "Common Area" shall mean all real property designated on the plat of the Subdivision and owned by the Association for the common use and enjoyment of the Owners of property in the Subdivision.

2.03 "Declarant" shall mean and refer to Houston Lipar, Ltd., its successors and assigns if such successors or assigns should acquire the undeveloped Lots from the Declarant for the purpose of development.

2.04 "Declaration" shall collectively mean and refer to the Declarations of Covenants, Conditions and Restrictions applicable to the Subdivision as respectively filed in the office of the County Clerk of Montgomery County, Texas in Clerk's File Nos. 2001-024582, 2002-029410 and 2004-127533 of the Official Public Records of Montgomery County, Texas, together with any amendments thereto.

2.05 "Director" shall mean a member of the Board of Directors, as elected or appointed from time-to-time.

2.06 "Lot" shall mean and refer to the lots of land shown upon the recorded plat of the Subdivision and described in the Declaration.

2.07 "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

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2.08 "Officer" shall mean an officer of the Association as elected or appointed from time-to-time.

2.09 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Subdivision, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation as more fully described in the Declaration.

2.10 "Subdivision" shall mean and refer to that certain real property known as Benders Landing Subdivision as described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association pursuant to said Declaration or subsequent Declarations filed of record.

ARTICLE 3

QUALIFICATIONS FOR MEMBERSHIP

3.01 Membership. The membership of the Association shall consist of all the Owners of the Lots within the Subdivision or brought within the scheme of the Declaration for the Subdivision pursuant to the provisions and authority of said Declaration, which is subject to a maintenance charge assessment by the Declarant or assigns, including contract purchasers. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association under the Declaration.

3.02 Proof of Membership. The rights of membership shall not be exercised by any person until satisfactory proof has been furnished to the Secretary of the Association that the person is qualified as a Member. Such proof may consist of a copy of a duly executed and acknowledged deed or title insurance policy evidencing ownership of a Lot or Lots in the Subdivision. Such deed or policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

3.03 No Additional Qualification. The sole qualification for membership shall be ownership of a Lot or Lots in the Subdivision. No initiation fees, costs, or dues shall be assessed against any person as a condition of membership except such assessments, levies, and charges as are specifically authorized under the Declaration.

3.04 Certificates of Membership. The Board of Directors may provide for the issuance of certificates evidencing membership in the Association which shall be in such form as may be determined by the Board. All certificates evidencing membership shall be consecutively numbered. The name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association and maintained by the Secretary at the registered office of the Association.

RP 069-27-1276

ARTICLE 4

VOTING RIGHTS

4.01 Voting. Voting shall be a one vote per Lot basis. The Owner or Owners of each Lot are entitled to one vote for each Lot owned in the Subdivision. If record title to a particular Lot or Lots is in the name of two or more persons, all co-owners shall be Members and may attend any meeting of the Association but the voting rights appurtenant to each such Lot or tract may not be divided and fractional votes shall not be allowed. Any one of said co-owners may exercise the vote appurtenant to each such Lot or tract so owned at any meeting of the Members and such vote shall be binding and conclusive on all of the other co-owners of said Lot or tract who are not present; provided, if one of the non-attending co-owners has given the Association notice of objection to the attending co-owner's vote, no vote shall be cast for said Lot or tract except upon notice of unanimous consent by all such co-owners being given to the Association. In the event more than one vote is cast for a single Lot or tract by an Owner, none of the votes so cast shall be counted and all of such votes shall be deemed void.

4.02 Class of Membership. The Association now has one (1) class of voting membership.

4.03 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease on conveyance by the Member of his Lot, or on receipt of notice by the Secretary of the death or judicially declared incompetence of such Member. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise specifically provided in the proxy.

4.04 Quorum. The presence, either in person or by proxy, at any meeting, of Members entitled to cast at least ten percent (10%) of the total votes of the Association shall constitute a quorum for any action. In the absence of a quorum at a meeting of Members, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five (5) days or more than forty-five (45) days from the meeting date.

4.05 Required Vote. The vote of the majority of the votes entitled to be cast by the Members present, or represented by proxy, at a meeting at which a quorum is present shall be the act of the meeting of the Members, unless the vote of a greater number is required by statute.

4.06 Cumulative Voting. Cumulative voting shall not be permitted during the election of Directors.

RP 059-27-1277

ARTICLE 5

MEETING OF MEMBERS

5.01 Annual Meetings. The annual meeting of the Members of the Association shall be held on any day in January of each calendar year on a date and time as determined by the Board of Directors.

5.02 Special Meetings. Special meetings of the Members may be called by the President, the Board of Directors, or by Members representing at least ten percent (10%) of the total votes entitled to be cast by the Members.

5.03 Place. Meetings of the Members shall be held within the Subdivision or at a meeting place as close thereto as possible as the Board may specify in writing.

5.04 Notice of Meetings. Written notice of all Members' meetings shall be given by or at the direction of the Secretary of the Association (or other persons authorized to call the meeting) by mailing or personally delivering a copy of such notice at least ten (10) but not more than fifty (50) days before such meeting to each Member entitled to vote at such meeting, addressed to the Members' address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at the address last appearing on the books of the Association with postage thereon paid.

5.05 Order of Business at Meetings. The order of business at all meetings of the Members shall be as follows:

- (1) Roll call;
- (2) Proof of notice of meeting or waiver of notice;
- (3) Reading of Minutes of preceding meeting;
- (4) Reports of Officers;
- (5) Reports of committees;
- (6) Election of Directors;
- (7) Unfinished business; and
- (8) New business.

5.06 Action without Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if consented to in writing, setting forth the action so taken, shall be signed by all of the Members and filed with the Secretary of the Association.

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ARTICLE 6

BOARD OF DIRECTORS

6.01 Number. The affairs of the Association shall be managed by the Board of Directors consisting of seven (7) persons, all of whom must be Members of the Association.

6.02 Term. At the first annual meeting of Members, two (2) Directors were elected to serve on the Board for a one (1) year term; two (2) Directors shall be elected to serve on the Board for a two (2) year term; and three (3) Directors shall be elected to serve on the Board for a three (3) year term. Thereafter the term of office for each position is three (3) years and the terms of the Directors shall be staggered so that the terms of the Directors shall not result in more than three (3) Directors being elected in any one year. Each Director shall hold office until a successor is duly elected or appointed.

6.03 Qualifications. Directors that are elected or appointed to the Board must be Members of the Association in good standing. For the purposes of this Article VI, Section 6.03 and Article VI, Section 6.04 "good standing" means that the Director is not (i) delinquent in the payment of any assessment levied by the Association against the Director's Lot, or any interest, late charges, costs, attorney's fees or other charges added to such assessment under the provisions of the Declaration or as provided by law, or (ii) in violation of any provision of the Declaration or any rules and regulations of the Association. A member of the Association who is not in good standing is not eligible to be nominated for, elected, appointed or allowed to remain a member of the Board of Directors.

6.04 Removal. Directors may be removed from office with or without cause by a majority vote of the Members of the Association all of whom are entitled to vote by a majority vote. A Director shall also be removed from the Board by the Board under the following two (2) circumstances:

- (1) A Director that is absent from three (3) consecutive regular meetings of the Board may be removed from the Board by a majority vote of the remaining members of the Board; and
- (2) A Director must be removed from the Board of Directors who ceases to be a Member of the Association in good standing. If a Director ceases to be a Member of the Association in good standing his or her position on the Board of Directors shall cease upon the expiration of thirty (30) days from the date of written notice thereof by the Association, unless within such thirty (30) day period the Director, as applicable, (i) pays all sums due the Association, or (ii) corrects the violation of said Declaration, and (iii) Board votes to allow the Director to remain on the Board.

In the event a Director is removed from office by a majority vote of the Members, as provided above, his or her successor shall be elected at the meeting where the Director is removed from office to serve the unexpired term of his or her predecessor. In the event of death, resignation, or removal from office under circumstances (1) or (2) above, the Director's successor shall be appointed by the remaining members of the Board.

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6.05 Vacancies. In the event of a vacancy on the Board caused by death, resignation, removal of a Director, the remaining Directors shall, by majority vote, elect a successor who shall serve for the unexpired term of the predecessor in office.

Any directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting or at a special meeting of Members called for that purpose.

6.06 Compensation. No Director shall receive compensation (either direct or indirect) for any service he/she may render to the Association. A Director may, however, be reimbursed by the Board for actual expenses incurred by such Director in the performance of duties.

6.07 Powers and Duties. The Board shall have the powers and duties, and shall be subject to limitations on such powers and duties, as enumerated in these Bylaws or as set forth in the Articles of Incorporation of the Association. In addition, the Board of Directors shall have the powers and following duties:

- a. cause to be kept a complete record of all acts and corporate affairs;
- b. supervise all Officers, agents, committees, and employees of this Association, and to see that their duties are properly performed;
- c. as more fully provided in the Declaration to:
 - (1) fix the amount of the annual maintenance fund assessments against each Lot at least thirty (30) days in advance of each annual assessment period as provided in the Declaration;
 - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) commence foreclosure proceedings of the Association's lien against any Lot for which assessments are not paid or to bring an action at law against the Owner personally obligated to pay the same, as directed by the Board from time-to-time;
- d. issue, or to cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- e. procure and maintain, if possible, adequate liability and hazard insurance on property owned by the Association;
- f. cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- g. cause the Common Area to be maintained;

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- h. cause the Declaration to be enforced and administered;
- i. employ such accountants, attorneys, contractors or other persons or entities as they deem necessary to manage and administer the affairs of the Association; and
- j. manage the affairs of the Association.

Directors shall exercise ordinary business judgment in managing the affairs of the Association. In acting in their official capacity as Directors of this Association, Directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Association and that are not unlawful. In all other instances, the Board of Directors shall not take any action that they should reasonably believe would be opposed to the Association's best interests or would be unlawful. A Director shall not be liable if, in the exercise of ordinary care, the Director acts in good faith relying on written financial and legal statements provided by an accountant or attorney retained by the Association.

6.08 Actions of Board of Directors. The Board of Directors shall try to act by consensus. However, the vote of a majority of Directors present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the Board of Directors unless the act of a greater number is required by law or these Bylaws. A Director who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the decision of the Board of Directors. For the purpose of determining the decision of the Board of Directors, a Director who is represented by proxy in a vote is considered present.

ARTICLE 7

NOMINATION OF DIRECTORS

7.01 Nomination and Election of Directors. Nomination for election to the Board of Directors shall be made: (1) by any Member representing himself/herself and providing written notice to the Association no earlier than October 1st nor, later than December 1st of the year prior to the annual meeting to be held in January of the following year, or (2) from the floor at the annual meeting.

ARTICLE 8

MEETINGS OF DIRECTORS

8.01 Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly at such place and at such time as may be fixed from time to time by resolution of the Board. Notice of the time and place of such meeting shall be delivered by mail, personal delivery or electronically to each member of the Board of Directors not less than three (3) nor more than thirty (30) days before the date of the meeting.

8.02 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the Secretary of the Board of Directors or

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by any two (2) Directors other than the Secretary. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting must be given to each Director not less than three (3) days, or more than thirty (30) days prior to the date fixed for such meeting by written notice delivered personally or sent by mail, personal delivery or electronically to each Director, at the addresses (electronic or physical) provided by each such Director to the Secretary of the Association.

8.03 Quorum. A quorum for the transaction of business by the Board of Directors shall be the lesser of either a majority of the number of Directors constituting the Board of Directors as fixed by these Bylaws or four. Directors may vote by proxy at meetings of the Board of Directors, but proxies may not be counted towards establishing a quorum.

8.04 Voting Requirement. The act of the majority of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless any provision of the Articles of Incorporation or these Bylaws requires the vote of a greater number.

8.05 Open Meetings. Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Association Members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board.

8.06 Executive Session. The Board may, with the approval of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is, or may become, involved, and other business of a confidential nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

ARTICLE 9

COMMITTEES

9.01 Appointed by Board of Directors. The Board of Directors shall appoint such committees as are required by the Declaration. The Board may from time to time establish and appoint to such other committees as it shall deem necessary and advisable to assist the Board in the general operation and management of the Association. The Chairman and all Members of each such committee must be a Member of the Association (in good-standing as defined in Section 6.03 of these Bylaws)

9.02 Authority of Committees. The Board of Directors may grant to any committee thus established by the Board such authority and power consistent with these Bylaws as the Board shall deem required to carry out the intended purposes and functions of such committee.

9.03 Discharge of Committees and Committee Members. The Board of Directors may discharge any committee established by the Board and may remove and replace any committee member appointed to any committee, with or without cause.

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ARTICLE 10

OFFICERS

10.01 Enumeration of Officers. The Officers of this Association (who shall at all times be members of the Board of Directors) shall be a President, a Vice President and a Secretary and Treasurer. The Board of Directors may, by resolution, create such other offices as it deems necessary or desirable.

10.02 Term. The Officers of this Association shall be elected annually by the Board of Directors and each shall hold office for a term of one year, unless such Officer shall sooner resign, be removed, or be otherwise disqualified to serve, in which event his or her replacement shall be appointed by the Board.

10.03 Resignation and Removal. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein. Any Officer may be removed from office by the Board whenever, in the Board's judgment, the best interests of the Association would be served by such removal.

10.04 Multiple Offices. Any two or more offices may be held by the same person, except the offices of President and Secretary.

10.05 Compensation. Officers shall not receive compensation for services rendered to the Association.

ARTICLE 11

PRESIDENT

11.01 Election. At the first meeting of the Board immediately following the annual meeting of the Members, the Board shall elect one of its members to act as President.

11.02 Duties. The President shall:

- (a) Preside over all meetings of the Members and of the Board;
- (b) Sign as President all deeds, contracts, and other instruments in writing which have been first approved by the Board, unless the Board, by duly adopted resolution, has authorized the signature of a lesser Officer;
- (c) Call meetings of the Board whenever he/she deems it necessary in accordance with rule and on notice agreed to by the Board. The notice period shall, with the exception of emergencies, in no event be less than three (3) days; and
- (d) Have, subject to the advice of the Board, general supervision, direction and control of the affairs of the Association and discharge such other duties as may be required by the Board.

ARTICLE 12

VICE PRESIDENT

12.01 Election. At the first meeting of the Board immediately following the annual meeting of the Members, the Board shall elect one of its members to act as Vice President.

12.02 Duties. The Vice President shall:

- (a) Act in the place and in the stead of the President in the event of the President's absence, inability, or refusal to act; and
- (b) Exercise and discharge such other duties as may be required by the Board. In connection with any such additional duties, the Vice President shall be supervised by the President.

ARTICLE 13

SECRETARY

13.01 Election. At the first meeting of the Board immediately following the annual meeting of the Members, the Board shall elect one of its members to act as a Secretary.

13.02 Duties. The Secretary shall:

- (a) Keep a record of all meetings and proceedings of the Board and of the Members;
- (b) Serve such notices of meetings of the Board and the Members required either by law, the Declaration, or by these Bylaws;
- (c) Keep appropriate current records showing the Members of this Association together with their addresses; and
- (d) Sign as Secretary all deeds, contracts, and other instruments in writing which have been first approved by the Board if said instruments require a second Association signature, unless the Board has authorized another Officer to sign in the place and stead of the Secretary by duly adopted resolution.

ARTICLE 14

TREASURER

14.01 Election. At the first meeting of the Board immediately following the annual meeting of the Members, the Board shall elect one of its members to act as a Treasurer.

14.02 Duties. The Treasurer shall:

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- (a) Receive and deposit in such bank or banks as the Board may from time to time direct, all of the funds of the Association;
- (b) Be responsible for, and supervise the maintenance of, books and records to account for such funds and other Association assets;
- (c) Disburse and withdraw said funds as the Board may from time to time direct, and in accordance with prescribed procedures; and
- (d) Prepare and distribute the financial statements for the Association required by the Declaration.

ARTICLE 15

BOOKS AND RECORDS

15.01 Maintenance. Complete and correct records of account and minutes of proceedings of meetings of Members, Directors, and committees shall be kept at the registered office of the Association. A record containing the names and addresses of all Members entitled to vote shall be kept at the registered office or principle place of business of the Association.

15.02 Inspection. The Declaration, the Articles of Incorporation and the Bylaws of the Association, the membership register, the books of account, and the minutes of proceedings, shall be available for inspection and copying by any Member of the Association or any Director for any proper purpose at any reasonable time.

ARTICLE 16

AMENDMENTS

16.01 Amendments. These Bylaws may be modified, altered, amended, or repealed and new Bylaws adopted by a majority vote of the Board of Directors or by a majority vote of those Members present and voting, in person or by proxy, at any annual or special meeting or election called for that purpose. Provided, however, for amendments of these Bylaws by the Members a statement of the proposed modifications, alterations, amendments, or repeal and proposed new Bylaws must be signed by either (i) the President and Secretary, after being approved by the Board of Directors, or (ii) ten (10%) percent or more of the Members entitled to vote. It shall be the duty of the Board of Directors to cause a copy of such proposed modifications, alterations, amendments, or repeal and proposed new Bylaws to be voted on by the Members, be mailed to each Member of the Association at his/her last known address on the books of the Association at least ten (10) days before such meeting duly called to vote thereon.

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

**CERTIFICATE OF SECRETARY
of
BENDERS LANDING PROPERTY OWNERS ASSOCIATION
regarding
AMENDED AND RESTATED BYLAWS OF
BENDERS LANDING PROPERTY OWNERS ASSOCIATION**

The undersigned, being the duly elected, qualified and acting Secretary of Benders Landing Property Owners Association, a Texas non-profit corporation ("Association"), does hereby certify that at a meeting of the Board of Directors of the Association ("Board") duly called and held on the 16th day of July, 2009, with at least a quorum of the Board members being present and remaining throughout, and being duly authorized to transact business, the Bylaws of the Association were amended and restated as set forth in the foregoing "Amended and Restated Bylaws of Benders Landing Property Owners Association" ("Bylaws"), which was approved by a majority vote of the members of the Board.

TO CERTIFY WHICH WITNESS my hand on this 29 day of November, 2009.

BENDERS LANDING PROPERTY OWNERS ASSOCIATION *KR*

[Signature]
Secretary
James Hince III

STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

Before me, the undersigned authority, on this day personally appeared James Hince III, Secretary of Benders Landing Property Owners Association, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration, and in the capacity therein expressed. Given under my hand and seal of office on this 24th day of November, 2009.



163831

Att: Butler & Hailey
8901 Gaylord Dr., Suite 100
Houston, TX 77024 ✓

[Signature]
Notary Public - State of Texas

ALL INSTRUMENTS MUST BE FILED IN THE PUBLIC RECORDS OF HARRIS COUNTY, TEXAS. THIS INSTRUMENT WAS FILED IN THE PUBLIC RECORDS OF HARRIS COUNTY, TEXAS ON 11/08/09 AT 10:00 AM. I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN THE PUBLIC RECORDS OF HARRIS COUNTY, TEXAS ON 11/08/09 AT 10:00 AM. IN THE OFFICE OF THE COUNTY CLERK OF HARRIS COUNTY, TEXAS.

DEC - 8 2009



[Signature]
COUNTY CLERK
HARRIS COUNTY, TEXAS

RP 069-27-1286

FILED FOR RECORD

2009 DEC 16 AM 11:14

Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the Official Public Records of Real Property at
Montgomery County, Texas.

DEC 16 2009



Mark Turnbull

County Clerk
Montgomery County, Texas